

AMENDED IN SENATE MAY 5, 2015  
AMENDED IN SENATE APRIL 22, 2015  
AMENDED IN SENATE MARCH 23, 2015

**SENATE BILL**

**No. 253**

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**Introduced by Senator Monning**  
(Principal coauthor: Assembly Member Chiu)  
(~~Coauthor: Senator~~ **Coauthors: Senators Beall and Leno**)  
(Coauthor: Assembly Member Gatto)

February 18, 2015

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An act to amend Section 4064.5 of the *Business and Professions Code*, and to amend Section 369.5 of the *Welfare and Institutions Code*, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 253, as amended, Monning. Dependent children: psychotropic medication.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge children to be dependents of the court under certain circumstances, including when the child suffered or there is a substantial risk that the child will suffer serious physical harm, or a parent fails to provide the child with adequate food, clothing, shelter, or medical treatment. Existing law authorizes only a juvenile court judicial officer to make orders regarding the administration of psychotropic medications for a dependent child who has been removed from the physical custody of his or her parent. Existing law requires the court authorization for the administration of psychotropic medication to a child be based on a request from a physician, indicating the reasons for the request, a

description of the child's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication.

This bill would require that an order authorizing the administration of psychotropic medications to a dependent child be granted only upon the demonstration of clear and convincing evidence that administration of the medication is in the best interest of the child and the court determines that specified requirements have been met, including a requirement that the prescribing physician confirms that he or she has conducted a comprehensive evaluation of the child, as specified. The bill would prohibit the court from authorizing the administration of psychotropic medications to a child under other specified circumstances, unless a 2nd independent medical opinion is obtained from a child psychiatrist or a psychopharmacologist. The bill would prohibit the court from authorizing the administration of a psychotropic medication unless the court is provided documentation that appropriate screenings and tests for the child have been completed no more than 30 days prior to submission of the request to the court. The bill would impose additional requirements on the court to implement these provisions and to conduct review hearings, as specified. *The bill would authorize psychotropic medication to be administered in an emergency without court authorization. The bill would require court authorization to be sought as soon as practical, but in no case more than 2 court days after emergency administration of the psychotropic medication.* The bill would require the Judicial Council to adopt rules to implement these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     **SECTION 1.** *Section 4064.5 of the Business and Professions*
- 2     *Code is amended to read:*
- 3     4064.5. (a) A pharmacist may dispense not more than a 90-day
- 4     supply of a dangerous drug other than a controlled substance
- 5     pursuant to a valid prescription that specifies an initial quantity of
- 6     less than a 90-day supply followed by periodic refills of that
- 7     amount if all of the following requirements are satisfied:
- 8     (1) The patient has completed an initial 30-day supply of the
- 9     dangerous drug.

1 (2) The total quantity of dosage units dispensed does not exceed  
2 the total quantity of dosage units authorized by the prescriber on  
3 the prescription, including refills.

4 (3) The prescriber has not specified on the prescription that  
5 dispensing the prescription in an initial amount followed by  
6 periodic refills is medically necessary.

7 (4) The pharmacist is exercising his or her professional  
8 judgment.

9 (b) For purposes of this section, if the prescription continues  
10 the same medication as previously dispensed in a 90-day supply,  
11 the initial 30-day supply under paragraph (1) of subdivision (a) is  
12 not required.

13 (c) A pharmacist dispensing an increased supply of a dangerous  
14 drug pursuant to this section shall notify the prescriber of the  
15 increase in the quantity of dosage units dispensed.

16 (d) In no case shall a pharmacist dispense a greater supply of a  
17 dangerous drug pursuant to this section if the prescriber personally  
18 indicates, either orally or in his or her own handwriting, "No  
19 change to quantity," or words of similar meaning. Nothing in this  
20 subdivision shall prohibit a prescriber from checking a box on a  
21 prescription marked "No change to quantity," provided that the  
22 prescriber personally initials the box or checkmark. To indicate  
23 that an increased supply shall not be dispensed pursuant to this  
24 section for an electronic data transmission prescription as defined  
25 in subdivision (c) of Section 4040, a prescriber may indicate "No  
26 change to quantity," or words of similar meaning, in the  
27 prescription as transmitted by electronic data, or may check a box  
28 marked on the prescription "No change to quantity." In either  
29 instance, it shall not be required that the prohibition on an increased  
30 supply be manually initialed by the prescriber.

31 (e) This section ~~shall~~ *does* not apply to psychotropic medication  
32 or psychotropic drugs as described in ~~subdivision (d)~~ of Section  
33 369.5 of the Welfare and Institutions Code.

34 (f) Nothing in this section shall be construed to require a health  
35 care service plan, health insurer, workers' compensation insurance  
36 plan, pharmacy benefits manager, or any other person or entity,  
37 including, but not limited to, a state program or state employer, to  
38 provide coverage for a dangerous drug in a manner inconsistent  
39 with a beneficiary's plan benefit.

1     ~~SECTION 1.~~

2     ~~SEC. 2.~~ Section 369.5 of the Welfare and Institutions Code is  
3 amended to read:

4     369.5. (a) If a child is adjudged a dependent child of the court  
5 under Section 300 and the child has been removed from the  
6 physical custody of the parent under Section 361, only a juvenile  
7 court judicial officer shall have authority to make orders regarding  
8 the administration of psychotropic medications for that child. The  
9 juvenile court may issue a specific order delegating this authority  
10 to a parent upon making findings on the record that the parent  
11 poses no danger to the child and has the capacity to authorize  
12 psychotropic medications. Court authorization for the  
13 administration of psychotropic medication shall be based on a  
14 request from a physician, indicating the reasons for the request, a  
15 description of the child's diagnosis and behavior, the expected  
16 results of the medication, and a description of any side effects of  
17 the medication. On or before July 1, 2016, the Judicial Council  
18 shall adopt rules of court and develop appropriate forms for  
19 implementation of this section. Whenever the court authorizes the  
20 administration of a psychotropic medication, it shall ensure that  
21 the administration of the psychotropic medication is only one part  
22 of a comprehensive treatment plan for the child that shall include  
23 and specify the psychosocial services the child will receive in  
24 addition to any authorized medication.

25     (b) (1) An order authorizing the administration of psychotropic  
26 medications pursuant to this section shall only be granted on clear  
27 and convincing evidence that administration of the medication is  
28 in the best interest of the child based on a determination that the  
29 anticipated benefits of the psychotropic medication outweigh the  
30 short- and long-term risks associated with the medications. *An*  
31 *order authorizing the administration of psychotropic medication*  
32 *pursuant to this section shall not be granted if the court determines*  
33 *that the medication is being used as punishment, for the*  
34 *convenience of staff, as a substitute for other less invasive*  
35 *treatments, or in quantities or dosages that interfere with the*  
36 *child's treatment program.*

37     (2) An order authorizing the administration of psychotropic  
38 medications pursuant to this section shall only be granted if the  
39 court determines all of the following:

1     ~~(A) The medication is not being used as punishment, for the~~  
2     ~~convenience of staff, as a substitute for other, less invasive~~  
3     ~~treatments, or in quantities or dosages that interfere with the child's~~  
4     ~~treatment program.~~

5     ~~(B)~~

6     (A) The court is provided documentation confirming the child's  
7     caregiver has been informed, and the child has been informed in  
8     an age and developmentally appropriate manner, about the  
9     recommended medications, the anticipated benefits, the nature,  
10    degree, duration, and probability of side effects and significant  
11    risks commonly known by the medical profession, and of  
12    psychosocial treatments to be considered concurrently with or as  
13    an alternative to the medication.

14    (i) The documentation shall state that the child and the child's  
15    caregiver have been asked whether either have concerns regarding  
16    the medication, and if so, shall describe the nature of those  
17    concerns. The documentation shall confirm that the child has been  
18    informed of the right to request a hearing pursuant to subdivision  
19    (g).

20    (ii) The documentation shall include the written informed  
21    consent of a child who is 14 years of age or older, after being  
22    advised pursuant to this subparagraph.

23    ~~(C)~~

24    (B) The prescribing physician submitting the request for  
25    psychotropic medication confirms that he or she conducted a  
26    comprehensive examination of the child in compliance with Section  
27    2242 of the Business and Professions Code and consistent with  
28    the Psychiatric Evaluation and Diagnosis provisions included in  
29    the Guidelines for the Use of Psychotropic Medication with  
30    Children and Youth in Foster Care issued by the state, which takes  
31    into account all of the following:

32    (i) The child's trauma history.

33    (ii) The child's medical records, including medication history.

34    (iii) Multiple sources of information, including, but not limited  
35    to, the child, the child's parents, relatives, teacher, caregiver or  
36    caregivers, past prescribers of psychotropic medication, or other  
37    health care providers.

38    ~~(D)~~

39    (C) The prescribing physician shall also confirm all of the  
40    following:

1 (i) There are no less invasive and effective treatment options  
2 available to meet the needs of the child.

3 (ii) The dosage or dosage range requested is appropriate for the  
4 child.

5 (iii) The short- and long-term risks associated with the use of  
6 psychotropic medications by the child does not outweigh the  
7 reported benefits to the child.

8 (iv) All appropriate lab screenings, measurements, or tests for  
9 the child have been completed in accordance with accepted medical  
10 guidelines.

11 ~~(E)~~

12 (D) A plan is in place for regular monitoring of the child's  
13 medication and psychosocial treatment plan, the effectiveness of  
14 the medication and psychosocial treatment, and any potential side  
15 effects of the medication, by the physician in consultation with  
16 the caregiver, mental health care provider, and others who have  
17 contact with the child, as appropriate.

18 ~~(2)~~

19 (3) The person or entity submitting the request for authorization  
20 of the administration of psychotropic medication shall bear the  
21 burden of proof established in this section.

22 (c) A court shall not issue an order authorizing the administration  
23 of psychotropic medications for a child unless a second  
24 independent medical opinion is obtained from a child psychiatrist  
25 or a psychopharmacologist if one or more of the following  
26 circumstances exist:

27 (1) The request is for any class of psychotropic medication for  
28 a child who is five years of age or younger.

29 (2) The request would result in the child being administered  
30 three or more psychotropic medications concurrently.

31 (3) The request is for the concurrent administration of any two  
32 drugs from the same class unless the request is for medication  
33 tapering and replacement that is limited to no more than 30 days.

34 (4) The request is for a dosage that exceeds the amount  
35 recommended for children.

36 (5) The request is for the administration of a psychotropic  
37 medication that is subject to a federal Food and Drug  
38 Administration black box warning requirement or is for the  
39 administration of an antipsychotropic medication for a use that

1 is not approved by the federal Food and Drug Administration for  
2 children or adolescents.

3 (d) The court shall not authorize the administration of the  
4 psychotropic medication unless the court is provided  
5 documentation that all of the appropriate lab screenings,  
6 measurements, or tests for the child have been completed in  
7 accordance with accepted medical guidelines no more than 30 days  
8 prior to submission of the request to the court.

9 (e) (1) No later than 60 days after the authorization of a new  
10 psychotropic medication is granted or at the next review hearing  
11 scheduled for the child pursuant to Section 366, 366.21, 366.22,  
12 or 366.31, if scheduled no earlier than 45 days after the  
13 authorization of a new psychotropic medication, the court shall  
14 conduct a review hearing to determine all of the following:

15 (A) Whether the child is taking the medication or medications.

16 (B) Whether psychosocial services and other aspects of the  
17 child's treatment plan have been provided to the child.

18 (C) To what extent the symptoms for which the medication or  
19 medications were authorized have been alleviated.

20 (D) *Whether more time is needed to evaluate the effectiveness*  
21 *of the medication or medications.*

22 ~~(D)~~

23 (E) What, if any, adverse effects the child has suffered.

24 ~~(E)~~

25 (F) Any steps taken to address those effects.

26 ~~(F)~~

27 (G) The date or dates of followup visits with the prescribing  
28 physician since the medication or medications were authorized.

29 ~~(G)~~

30 (H) Whether the appropriate followup laboratory screenings  
31 have been performed and their findings.

32 (2) If based upon this review, the court determines that the  
33 proffered benefits of the medication have not been demonstrated  
34 or that the risks of the medication outweigh the benefits, the court  
35 shall reconsider, modify, or revoke its authorization for the  
36 administration of medication.

37 (f) (1) In counties in which the county child welfare agency  
38 completes the request for authorization for the administration of  
39 psychotropic medication, the agency is encouraged to complete

1 the request within three business days of receipt from the physician  
2 of the information necessary to fully complete the request.

3 (2) Nothing in this subdivision is intended to change current  
4 local practice or local court rules with respect to the preparation  
5 and submission of requests for authorization for the administration  
6 of psychotropic medication.

7 (g) Within seven court days from receipt by the court of a  
8 completed request, the juvenile court judicial officer shall either  
9 approve or deny in writing a request for authorization for the  
10 administration of psychotropic medication to the child, or shall,  
11 upon a request by the parent, the legal guardian, or the child's  
12 attorney, or upon its own motion, set the matter for hearing.

13 (h) Psychotropic medication or psychotropic drugs are those  
14 medications administered for the purpose of affecting the central  
15 nervous system to treat psychiatric disorders or illnesses. These  
16 medications include, but are not limited to, anxiolytic agents,  
17 antidepressants, mood stabilizers, antipsychotic medications,  
18 anti-Parkinson agents, hypnotics, medications for dementia, and  
19 psychostimulants.

20 (i) (1) *Psychotropic medications may be administered without*  
21 *court authorization in an emergency. An emergency exists if all*  
22 *of the following conditions are met:*

23 (A) *A physician finds that the child requires psychotropic*  
24 *medication to treat a psychiatric disorder or illness.*

25 (B) *The medication is immediately necessary for the preservation*  
26 *of life or the prevention of serious bodily harm to the child or*  
27 *others. It is not necessary for the harm to take place or become*  
28 *unavoidable prior to treatment.*

29 (C) *It is impractical to obtain authorization from the court*  
30 *before administering the psychotropic medication to the child.*

31 (2) *Court authorization shall be sought as soon as practical,*  
32 *but in no case more than two court days after the emergency*  
33 *administration of psychotropic medication.*

34 (i)

35 (j) Nothing in this section is intended to supersede local court  
36 rules regarding a minor's right to participate in mental health  
37 decisions.

38 (j)



1     (k) This section shall not apply to nonminor dependents, as  
2     defined in subdivision (v) of Section 11400.

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